

**Indiana Housing and Community Development Authority
Section 42 Qualified Contract Provisions & Policies**

When submitting information to the Indiana Housing and Community Development Authority concerning a Qualified Contract the following Section 42 Qualified Contract Provisions & Policies (“Policies”) must be addressed. As used herein, any capitalized term shall have the meaning as defined and set out in Section 42 of the Internal Revenue Code of 1986, as amended (“Code”) unless otherwise provided herein.

Notification letter with required information submitted to IHCD

The owner of the development requesting that the Indiana Housing and Community Development Authority (IHCD) find a Qualified Contract purchaser for the applicable development must submit a notification letter (“Letter”) with the IHCD stating this interest. The Letter must be accompanied by the following required information:

1. A fully completed calculation of the Qualified Contract price, including completed Worksheets A – E and a detailed list of all assumptions utilized to calculate the Qualified Contract price. The assumptions used must be consistent with those included in these Policies. A certified public accountant, on behalf of the development, must complete, review and approve the calculation.
2. A thorough narrative description of the development, including a description of all amenities suitable for acquainting prospective purchasers with the development.
3. A detailed set of color photographs (digital and hard copy) of the development, including photographs of the interior and exterior of representative apartment units and buildings, and photographs of the development grounds (no photocopies).
4. A description of all restrictions applicable to the development and its operation.
5. A statement of Income and Expenses and Balance Sheets of the development for the three (3) years prior to the submission of the Letter and a statement of income and expenses of the development for the year to date of the submission of the Letter. The statements must fairly apprise a potential purchaser of the development’s operating expenses, debt service, gross receipts, net cash flow and debt service coverage ratio.
6. A current and certified rent roll.
7. Occupancy history for the three (3) years prior to the submission of the Letter.



8. Any third party environmental reports, correspondence from governmental entities, and copies of any contracts that cannot be extinguished upon the sale of the development.
9. A property condition report and property needs assessment.
10. Copies of the leases for the leased portions of the land or improvements.

The Letter and required information must be submitted before the expiration date of the initial Compliance Period. IHCD A will have one (1) year from the receipt of the Letter and required information to find a qualified purchaser for the development, unless the owner agrees to a longer time period. All buildings within the development must qualify before IHCD A will accept a Qualified Contract provision request. A development may make only one (1) request for a Qualified Contract purchaser, and the request must be made before the expiration date of the initial Compliance Period. IHCD A and its agents retain the right to request additional information as needed.

Certified Public Accountant Review

To help assess the credibility of the assumptions used in calculating the Qualified Contract price, the IHCD A will contract with a reputable independent certified public accountant to review the Qualified Contract price calculated by the development's certified public accountant. The development will be notified of any adjustments in the Qualified Contract price suggested or required following the IHCD A review.

Property listed with multi-family broker

IHCD A will contract with a reputable multi-family housing broker to appraise, and list and market all Section 42 properties that have requested to utilize the Qualified Contract provisions and submitted all required information. In addition, the development must agree to list the property with the multi-family housing broker selected by IHCD A. The listing price of the property will be the calculated Qualified Contract price. The final sales price will be the amount agreed upon by the parties. Properties that do not close after a purchaser has been found who will pay the calculated Qualified Contract price will be considered by IHCD A to have forfeited their right to utilize the Qualified Contract provisions of Section 42 for that development.

Fees and cost

Property owners agree to pay costs incurred for review of the submitted information and all commissions and fees owed to the multi-family housing brokers for services rendered including the cost of a third party appraisal. All other costs associated with the submittal of the Qualified Contract request are separate and must be paid by the property owner. IHCD A has established a Qualified Contract submittal fee of twenty-five dollars (\$25) per unit. This fee includes the costs of a IHCD A certified public accountant review.



Qualified Contract Price Calculation and Assumptions

All calculations must follow the Code. All assumptions utilized must be, in the sole and absolute discretion of the IHCD, reasonable and customary. The following assumptions must be used when calculating the Qualified Contract Price using Worksheets A through E.

Worksheet B – Adjusted Investor Equity: May be included only if included in adjusted basis of the development and required by the partnership agreement. *(either or)

Worksheet D – Cash Distributions: For the purpose of these calculations, cash distributions include: Developer fees, Construction or Contractor fees, Asset manager fees, and any refinance proceeds from the inception through the initial 15-years of participation in the Section 42 Programs

Special Circumstance Criteria for Release of Extended Use Declarations for Post Year 15 Properties

IHCD will consider releasing all or a portion of the units under the Extended Use Declaration for Post Year 15 Properties if at least one the of the following criteria are met to the satisfaction of IHCD:

1. The economic viability of the Property is poor and cannot be maintained throughout the Extended Use period through its current rental structure.
2. Current rents are similar are approximately the same as Fair Market Rents for units of similar size and structure and will remain similar for the foreseeable future.
3. There is a low measurable impact to the affordable housing market in the area.

Approval for the release of an Extended Use Declaration is at the sole discretion of IHCD and the Authority may require the submission of additional information to support any request for release.

Indemnification

Property owner agrees that the actions, determinations, decisions, or other rulings made by the IHCD pursuant to this policy shall not be construed to be a representation or warranty by the IHCD as to a development's compliance with applicable legal requirements, the feasibility or viability of any development, or any other matter. No action of the IHCD shall be relied upon by any person as a representation or warranty by the IHCD in connection therewith.



IHCDA reserves the right to resolve all conflicts, inconsistencies or ambiguities in these Policies, including those which may rise in administering, operating or managing the Qualified Contract Policies. The IHCDA in its sole discretion reserves the right to, and from time to time may, amend these Policies pursuant to the Code.

